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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,297	12/08/2003	Jack W. Romano		2174

36220 7590 09/19/2007  
JACK W. ROMANO  
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KIRKLAND, WA 98034

EXAMINER
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BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

MAIL DATE	DELIVERY MODE
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09/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/730,297

Applicant(s)

ROMANO ET AL.

Examiner

Michael G. Bogart

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 17, 18 and 29 is/are allowed.
- 6) ☒ Claim(s) 5-16 and 19-28 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Request for Continued Examination***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 June 2007 has been entered.

### ***Specification***

The disclosure is objected to because of the following informalities:

At page 10, line 23, replace "int rposed" with --interposed--.

Appropriate correction is required.

### ***Claim Objections***

Claim 30 is objected to because of the following informalities: In line one, the term "ill seal" should be replaced with --fill seal--.

Appropriate correction is required.

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3761

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claims 5-14 and 19-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Romano (WO 01/87223 A1) in view of Tribastone *et al.* (US 5,792,126 A; hereinafter "Tribastone").

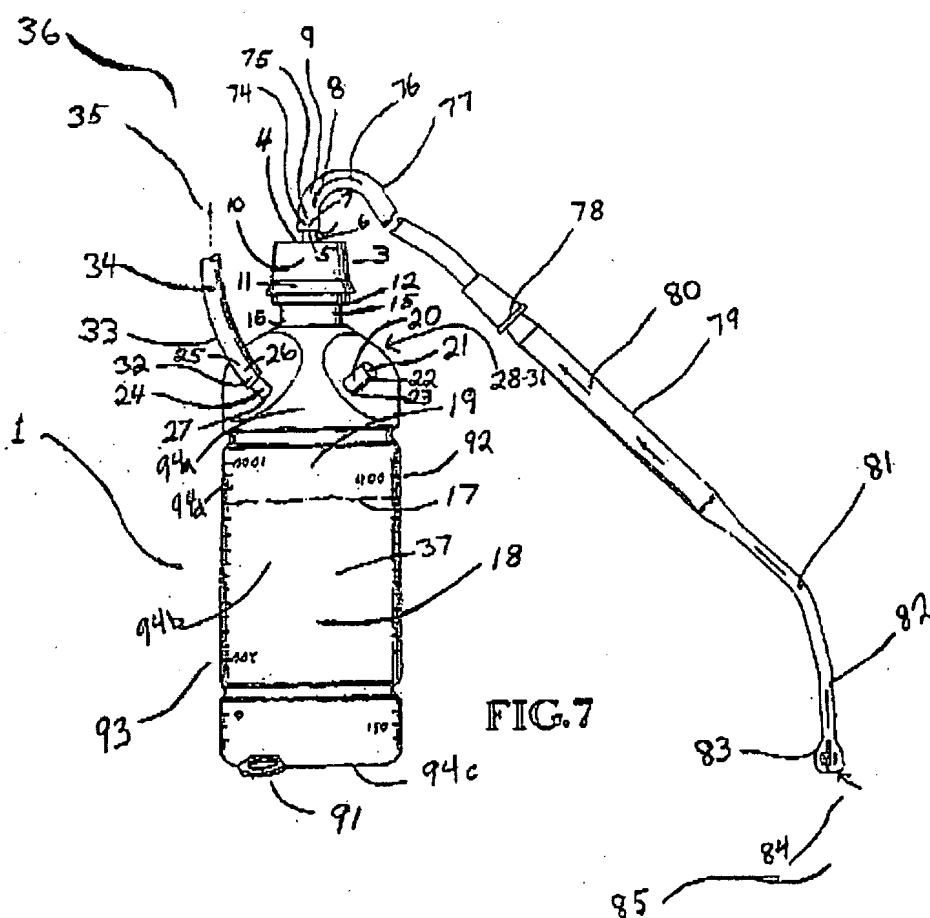
Regarding claims 5 and 6, Romano teaches a supply chain method comprising,

a) providing an aseptic/sterile liquid (17) said liquid (17) sealed in a container (1) at manufacturing having a predetermined sterility assurance level (page 56, line 24-page 57, line 16) said container (1) being adapted to be filled and sealed for enclosing said liquid (17) in said container (1) said container (1) being adapted to provide said liquid (1) for consumption said seal (10) being adapted to be removed to allow egress of said liquid (17) from said container (1) by pouring,

b) establishing a supplies conversion said container (1) being adapted to be disassociated from said consumption said container (1) being adapted to be converted to provide a sealed vacuum draw path (33) said draw path (33) being adapted to seal vacuum forces between a

Art Unit: 3761

vacuum (36) and an open end sealed path (79) said forces being adapted to be drawn into and out of a neck portion (15) of said container (1) said container (1) interposed between said vacuum (36) and said open end (79) said path being adapted to exchange draw forces through said neck portion (15) said container (1) being adapted to receive fluent waste material said material drawn by said forces said forces being adapted to be drawn by said vacuum (36)(page 51, line 14-page 54, line 30)(see fig. 7, infra).



Romano does not expressly disclose the step of unsealing the path by disconnecting the container from the draw path.

Art Unit: 3761

Tribastone teaches a fluid collection suction canister (10) that is capped when collection of fluids is terminated so that it may be transported (col. 7, lines 26-32). This implies that the vacuum and patient tubes (not shown) must be removed from the canister prior to capping. “[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.” *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968). MPEP § 2144.01.

At the time of the invention, it would have been obvious for one of ordinary skill in the art to adopt the steps of unsealing the tubes from and then resealing a cap to fluid collection device as taught by Tribastone with the material supply method of Romano in order to provide a step for sealing off collected contaminated liquid from the environment.

Regarding claims 7 and 8, Romano teaches a container (1) adopted to be unsealed for consumption (page 51, line 14-page 54, line 30).

Regarding claims 9-14, Tribastone discloses the step of providing for waste transport (col. 7, lines 26-32). See also, Romano abstract which discloses the efficiencies of eliminating redundant containers for multiple fluids.

Regarding claims 19-24, Romano teaches means (24, 32) for sealing and unsealing the vacuum draw path (33). The tube can be reversibly attached and removed to the connector by hand.

Regarding claims 25-28, Romano teaches both blow mold and blow fill seal types of manufacturing (page 55, lines 21-30).

Art Unit: 3761

Claims 15 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Romano and Tribastone as applied to claims 5-14 and 19-28 above, and further in view of Kawakami *et al.* (US 6,159,416 A; hereinafter “Kawakami”).

Romano and Tribastone are silent as to the containers being made from biodegradable materials.

Kawakami teaches blow moldable materials that are biodegradable (col. 1, line 38).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to make the containers of Romano and Tribastone out of the materials of Kawakami in order to provide materials that are recognized in the art as suitable for this purpose and the added benefit of decomposing in landfills.

***Allowable Subject Matter***

Claims 4, 17, 18 and 29 are allowed.

The following is an examiner’s statement of reasons for allowance:

The most relevant art of record, Romano (WO 01/87223 A1) fails to teach or fairly suggest an downwardly extending threaded neck with an outwardly extending sealing surface.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Art Unit: 3761

***Response to Arguments***

Applicant's arguments with respect to claims 5-16 and 19-28 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Bogart  
16 September 2007

**TATYANA ZALUKAEVA  
PRIMARY EXAMINER**  
